



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JULY 27, 2022

IN THE MATTER OF:

Appeal Board No. 623974

PRESENT: MICHAEL T. GREASON, MEMBER

The Department of Labor issued the initial determinations, disqualifying the claimant from receiving benefits, effective November 23, 2021, on the basis that the claimant voluntarily separated from employment without good cause or, in the alternative, disqualifying the claimant from receiving benefits, effective November 23, 2021, on the basis that the claimant lost employment through misconduct in connection with that employment and holding that the wages paid to the claimant by prior to November 23, 2021, cannot be used toward the establishment of a claim for benefits. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There was an appearance by the claimant. By decision filed May 23, 2022 (), the Administrative Law Judge sustained the initial determination of voluntary separation from employment without good cause.

The claimant appealed the Judge's decision to the Appeal Board.

Our review of the record reveals that the case should be remanded to hold a further hearing. On appeal, the employer has indicated that it failed to appear at the May 18, 2022, hearing because the employer did not receive notification of the hearing. The record also reveals that, though a phone number was present on the hearing notice for the employer's representative, the Administrative Law Judge did not contact the representative. In the interests of justice, the Board has determined to provide the employer and the employer's representative another opportunity to appear and to testify.

At the further hearing as to the initial determination of voluntary separation, the parties will have an opportunity to testify and present other evidence regarding the circumstances that precipitated the claimant's separation from her employment.

Now, based on the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issue ONLY, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issue, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MICHAEL T. GREASON, MEMBER